

d.) Remarks

In accordance with the examiner's request for an election/restriction, Applicant elects species I, which includes figures 1A through 2C. It is believed that all claims are generic or specific to this species of the disclosed invention. Claim 29 is not specific to this species.

Counsel for Applicant notes that the originally submitted claims have been rejected under 35 USC §102(e) over a patent to Flohe 6,783,815.

In this amendment, Applicant is presenting two distinct and separate arguments as to why Flohe is not relevant to anticipate or make obvious the claims of the present invention. It should also be noted that in this amendment, all of the originally submitted claims have been cancelled in favor of new claims 21 through 31.

The first position taken by Applicant is that the reference relied upon is a patent resulting from an application filed January 18, 2002. Although Applicant's application was not filed until November 12, 2003, there is submitted herewith three Declarations, one by the Applicant and two by third parties, which are believed to clearly demonstrate that Applicant made the invention, which includes both conception and reduction to practice, prior to the filing date of the Flohe reference. In accordance with 37 CFR 1.131(R-2), Applicant is swearing back of this reference by showing diary entries in which the invention is sketched and described, as well as dated photographs of the mobiles created by her prior to the filing of the Flohe application, and Declarations of third parties who have seen the mobiles prior to such filing date of Flohe. The new claims have been carefully drawn so as to distinguish them from Flohe's claims in order to avoid the provisions of 715.05 in which the "same invention" is made.

In addition to the swearing back of the Flohe reference, the claims are believed to clearly be distinguishable from the Flohe disclosure in that the claims are now directed towards a feature of the invention which is clearly disclosed in the application drawings. This feature is the provision of the cut lines on opposite sides of a medial spline being offset from each other. This is distinguishable over

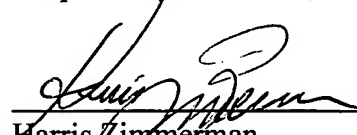
Flohe in which the cut strips are in alignment on opposite sides of a central spline. This results in a limitation of the amount of rotational movement of the cut strips about the spline because the spline must necessarily have a substantial width in order to accommodate aligned strips. On the other hand, by having the strips on opposite sides of a medial spline offset from each other, the spline can have an effective minimal thickness or width which permits far greater flexibility and twisting of the spline to permit a greater variety of three dimensional configurations. Further, with the Flohe arrangement, the rotational ability of the strips on each side of the medial spline to a maximum of 180°, or if both sets of strips are rotated to a maximum of 90° because they will intersect and the strips come into contact with each other at the 90° configuration. On the contrary, with Applicant's offset construction, not only is the spline more flexible and more easily twistable, but a far greater angular displacement of the strips is possible because of the offset relationship. The photographs which accompany the Declarations submitted herewith indicate and disclose the wide variety of shapes and three dimensional configurations possible with this offset arrangement.

Accordingly, it is respectfully submitted that the claims in the application are not only clearly allowable over the Flohe reference, but Flohe is actually not a reference because of the swearing back Declarations which are a part of this amendment.

The examiner is invited to contact Applicant's counsel if a phone discussion is believed of interest to the examiner.

Dated: August 4, 2005

Respectfully submitted,

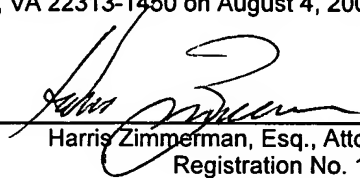


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I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 4, 2005.

Date: August 4, 2005



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